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IN THE COURT OF APPEAL OF THE STATE OF  
CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

DURRAY MARVELL GARMON,

Defendant and Appellant.

B301791

(Los Angeles County  
Super. Ct. No. BA311285)

APPEAL from an order of the Superior Court of Los Angeles County. William N. Sterling, Judge. Dismissed.

Corona & Peabody and Jennifer Peabody, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Respondent.

In 2009, a jury convicted appellant of first degree murder, several counts of attempted murder, and conspiracy to commit murder. As relevant here, the jury further found true special-circumstance allegations that “the murder was intentional and perpetrated by means of discharging a firearm from a motor vehicle, intentionally at another person or persons outside the vehicle with the intent to inflict death” (Pen. Code, § 190.2, subd. (a)(21)), and that appellant “intentionally killed the victim while [he] was an active participant in a criminal street gang . . . and the murder was carried out to further the activities of the criminal street gang” (*id.*, § 190.2, subd. (a)(22)). The trial court sentenced appellant to life without the possibility of parole plus 225 years to life.

In 2019, appellant filed a petition for relief under Penal Code section 1170.95, which provides that persons convicted of murder under theories of felony murder or the natural and probable consequences doctrine, and who could no longer be convicted of murder following the enactment of Senate Bill No. 1437 (SB 1437), may petition the sentencing court to vacate the conviction and resentence on any remaining counts. (Stats. 2018, ch. 1015, § 1, subd. (f).) The superior court summarily denied appellant’s petition, concluding appellant had failed to establish a *prima facie* case for relief: “A review of the record, including jury instructions[,] clearly shows that petitioner was not convicted under a theory of felony murder or natural and probable consequences. The jury was not instructed [on] . . .

felony murder or [the] natural and probable consequences [doctrine] . . . . Consequently, [appellant] does not qualify for potential relief under Penal Code section 1170.95.” Appellant filed a timely notice of appeal.

Appellant’s appointed counsel filed a brief raising no issues and invoking *People v. Serrano* (2012) 211 Cal.App.4th 496 (*Serrano*). Under *Serrano*, when appointed counsel raises no issue in an appeal from a post-judgment proceeding following a first appeal as of right, an appellate court need not independently review the record. (*Serrano, supra*, at 498.) We directed counsel to send the record and a copy of the brief to appellant, and notified appellant of his right to respond within 30 days. We have received no response. Because neither appellant nor his counsel has raised any claims of error, we dismiss the appeal as abandoned. (See *ibid.*)

**DISPOSITION**

The appeal is dismissed.

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MANELLA, P. J.

We concur:

WILLHITE, J.

CURREY, J.